

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WILSON DIVISION

IN RE:)
)
CASEY KENT PFORTMILLER)
CHRYSTAL NATASHA PFORTMILLER) CASE NO. 09-08570-8
)
) Chapter 13
Debtor(s))

MOTION FOR RELIEF FROM STAY OR
ADEQUATE PROTECTION

USAA Federal Savings Bank ("Movant"), moves the Court to enter an order granting it relief from stay, or alternatively, adequate protection in the above captioned case and as grounds therefore respectfully shows:

1. This Court has jurisdiction of this contested matter pursuant to 28 U.S.C. §§1334 and 157(b).
2. On or about October 1, 2009 the Debtor(s) (hereafter, the "Debtor"), filed a petition seeking relief under Chapter 13 of the Bankruptcy Code.
3. On or about April 2, 2007, the Debtor purchased a 2007 Chevrolet Silverado 1500, VIN #2GCEK13M571520679 (hereafter, the "Collateral") pursuant to the terms of an installment sales contract of even date (hereafter, the "Contract"). Movant is the current owner and holder of the Contract. A true and correct copy of the Contract is attached hereto as Exhibit A.
4. The Contract is secured by perfected security interest on the Collateral. A copy of the Certificate of Title evidencing the lien is attached hereto as Exhibit B.
5. The Chapter 13 Plan calls for the payments due under the Contract to be made directly to Movant. The Debtor is in default for failure to make payments as and when due. The post-petition default is as follows:

Payments Due 9/17/09 – 11/17/09 @ \$688.26 ea.	\$2,064.78
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A summary of the post-petition payments made by the Debtor is attached hereto as Exhibit C.

6. As of November 25, 2009, the current payoff under the Contract was \$32,247.75. The current NADA retail value of the Collateral is not greater than \$26,250.00. See Exhibit D.

7. Movant does not have proof of insurance for the Collateral. Movant does not have adequate protection of its security interest in the Collateral and there is good cause to grant Movant relief from the automatic stay.

8. Due to the nature of the Collateral as being easily moved and easily damaged, Movant also requests that any order granting the relief requested be immediately effective.

WHEREFORE, Movant moves the Court for the following relief:

1. For an Order granting Movant relief from the automatic stay provision of 11 U.S.C. §362(d), for cause under 11 U.S.C. §362(d)(1), so that it can foreclose its security interest in the Collateral in accordance with the loan documents and applicable state law.

2. That the Debtor be ordered to immediately release the Collateral to Movant or advise it of the location of the Collateral and the name, address, and telephone number of any third party who has possession.

3. That Movant be allowed a general unsecured claim for any outstanding deficiency balance remaining after the sale or subsequent disposition of the Collateral.

4. That in the alternative, Movant be afforded adequate protection of its interest in the Collateral, including proof of continuing insurance coverage on the Collateral naming Movant as loss payee.

5. That Movant be allowed the \$650.00 in reasonable attorneys' fees and costs incurred in connection with this Motion.

6. That Movant have such other relief as the Court deems just and proper.

This 10th day of December, 2009.

/s/ Stephen A. Lamb
N.C. State Bar No. 16712
THE LAMB FIRM
P.O. Box 36158
Charlotte, NC 28236-6158
(704) 331-0014

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NOTICE OF MOTION

USAA Federal Savings Bank has filed papers with the court for relief from the automatic stay, or alternatively, adequate protection.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief from stay, or if you want the court to consider your views on the motion, then on or before **December 28, 2009**, you or your attorney must:

File with the court a written request for a hearing, or an answer, explaining your position at:

RALEIGH DIVISION: U.S. Bankruptcy Court, P.O. Box 1441, Raleigh, North Carolina 27602-1441.

ALL OTHER DIVISIONS: U.S. Bankruptcy Court, 1760-A Parkwood Blvd., Wilson, NC 27893.

If you mail your request to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. You must also mail a copy to:

Stephen A. Lamb
P.O. Box 36158
Charlotte, NC 28236-6158

Trawick Stubbs, Trustee
Chapter 13 Office
P.O. Box 1618
New Bern, NC 28563

Grant Winfield Patten
PO BOX 42504
Fayetteville, NC 28309

Upon receipt of your answer or objection, the Court will set a hearing date and the Clerk will mail notice of the time, date and place of the hearing to you. If you file an answer or an objection you must attend the hearing scheduled by the Clerk of the Bankruptcy Court.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated this 10th day of December, 2009.

/s/ Stephen A. Lamb
N.C. State Bar No. 16712
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CERTIFICATE OF SERVICE

The undersigned certifies that this day the pleading or paper to which this Certificate is affixed was served upon the person(s) listed below by mailing a copy of the same, properly addressed and postage prepaid via the United States Postal Service.

Casey K. Pfortmiller
Chrystal N. Pfortmiller
4804 Addie Lane
Fayetteville, NC 28306

The following persons were served electronically.

Grant Winfield Patten, Attorney for Debtor

Trawick H. Stubbs, Jr., Chapter 13 Trustee

This the 10th day of December, 2009.

/s/ Stephen A. Lamb
N.C. State Bar No. 16712
THE LAMB FIRM
P.O. Box 36158
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